NATIONAL LABOR RELATIONS BOARD

WASHINGTON, D.C. 20570

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STATEMENT OF WILLIAM B. GOULD IV CHAIRMAN, NATIONAL LABOR RELATIONS BOARD ON FY 1997 AUTHORIZATION

I am concerned about the appropriation voted by the House Subcommittee today that would cut our agency's budget by 15% and includes riders that would be harmful to carrying out our mission. I hope that this budget issue can be resolved in a manner compatible with effective law enforcement and the policies of impartial administration of labor law that we have pursued.

I very much regret the "policy" riders enacted by the Subcommittee. I have spoken previously in opposition to the single facility rider which would prohibit the Board from expending funds to adopt a single bargaining unit rule. I remain convinced that this rider will undermine our efforts to diminish and eliminate wasteful litigation and thus conserve the resources of the taxpayers and private parties.

The new rider with respect to the Board's dollar amount jurisdictional standards, introduced by Congressman Istook, is flawed in its fundamental assumptions. As I pointed out to the Subcommittee last April, there is absolutely no evidence that indexing our jurisdictional yardsticks to inflation, as the rider does, will reduce our caseload in any respect. Indeed, as Professor Robert J. Flanagan of the Stanford Business School has said in his book, *Labor Relations and the Litigation Explosion*, (The Brookings Institution, 1987), on the basis of the evidence available to date, indexing would have little or no effect on the number of cases before the Board.

Congressman Istook stated that "the Board could have reduced its representational effort by 2 percent" and that it is "surprising" that the Board will conduct elections in small units -- "as small as *two* workers." Yet, as former General Counsel John S. Irving pointed out to the Court of Appeals for the Ninth Circuit in 1977:

> A single violation directed against a single employee may spark a "labor dispute burdening or obstructing commerce or the free flow of commerce."

Congressman Istook also states incorrectly that "[t]he Board refused to release statistics on this point to the public . . . ." The fact is the Board has no such statistics and would need a supplemental budget increase to develop such statistics.

Moreover, if the Board is, in fact, deprived of jurisdiction, both labor and management may be reduced to self-help initiatives in a new "law of the jungle." This would mean that in many states, employers could no longer restrain secondary boycotts, organizational and recognitional picketing and jurisdiction disputes. Employees, rather than being able to rely upon an orderly rule of law, would be encouraged to use self-help and, indeed, anti-social conduct.

Further, contrary to Congressman Istook's memorandum of June 4, the Board was in fact authorized by Congress to expand its jurisdiction or -- quoting from the memo --to "establish lower thresholds than were already in place."

I have urged the Subcommittee to hold hearings and to invite Professor Flanagan and other scholars before them to present their views and evidence about this matter. Today, I again call upon the Subcommittee or other relevant Subcommittees to examine this issue factually so that Congress, if it wishes, can legislate having all the facts before it. Legislating by appropriation riders does not serve the public interest because it circumvents a full exchange of opinions in Congressional hearings.

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